

HOUSE No. 402

By Mr. Fresolo of Worcester, petition of John P. Fresolo and others relative to disability benefits for health care workers, police officers, fire fighters and emergency medical technicians infected with AIDS or the HIV virus. Public Service.

The Commonwealth of Massachusetts

PETITION OF:

John P. Fresolo
SEIU - 5000 NAGE

Joan M. Menard

In the Year Two Thousand and Five.

AN ACT RELATIVE TO PUBLIC EMPLOYEE DISABILITY BENEFITS FOR CERTAIN EMPLOYEES EMPLOYED BY THE COMMONWEALTH AND ITS POLITICAL SUBDIVISIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter thirty-two, is hereby adding
2 the following definitions:—

3 “First Responder”, a health care worker, police officer, fire
4 fighter and emergency medical technician.

5 “Health care worker”, shall include, but not be limited to:
6 licensed physician, dentist, registered nurse, licensed practical
7 nurse, physician assistant, psychologist, social worker and other
8 health professional worker; nurses aide, orderly, laboratory technician,
9 emergency medical technician, surgical technician, medical
10 or surgical assistant, dental hygienist, dental assistant, licensed
11 therapist, therapy assistant, psychiatric aide and other health care
12 service provider; housekeeper, janitor, food service aide, transportation
13 aide, security officer and other ancillary personnel.

1 SECTION 2. Amend Massachusetts General Laws, Chapter 32
2 — Civil Service, by adding new sections:—

3 Section 94C. Disability or death caused by AIDS or HIV infec-
4 tion; first responder in public employ; presumption.

5 Section 94C(1). Notwithstanding the provisions of any general
6 or special law to the contrary, any condition of AIDS or HIV
7 infection resulting in disability or death to a first responder
8 employed by any state, county or local entity shall, if he or she
9 consented to a baseline collection for HIV serologic testing which
10 tests negative for HIV, but subsequent collection tests positive for
11 HIV, be presumed to have been suffered in the course of his or her
12 employment. The provision of this section shall apply only if the
13 disabling or fatal condition is a type which may, in general, result
14 from exposure to known or suspected bloodborne pathogens as
15 determined by the Federal Center for Disease Control (CDC).

16 (2) Nothing herein shall preclude a first responder from
17 applying for and receiving benefits under any other provisions of
18 the General Laws related to work-incurred injuries and diseases.

19 Section 94D. Extension of benefits for first responders suf-
20 fering from work related infection of AIDS, or HIV. A first
21 responder employed by state, county or local entity who is deter-
22 mined to be infected with AIDS or HIV shall have the right to
23 continue to work as long as his or her attending physician believes
24 there is no danger to the first responder to his or her patient, with
25 no loss in salary, seniority status, grade or benefits, including, but
26 not limited to health insurance. Nor shall there be any discrimina-
27 tion by the employer against the employee.

28 Section 94E. Supplementary Employer Payments for Certain
29 Workers. When a first responder employed by state, county or
30 local entity has been found to be disabled due to personal injuries,
31 as a result of HIV infection arising out of his employment, as
32 determined in Section 94C(1) of this Chapter, the employer shall
33 supplement any workers compensation established under this
34 chapter by an amount equal to the difference between this amount
35 and the worker's average weekly salary.

36 Section 94F. Special Disability Insurance. Each employer in
37 Massachusetts shall provide a minimum of \$100,000 of special
38 disability insurance to any first responder in his employ who is
39 found to be HIV infected from a work-related exposure. All poli-
40 cies regarding the establishment of diagnosis of HIV infection
41 shall follow the Standards on Blood Borne Pathogens of the fed-

42 eral Occupational Safety and Health Administration (OSHA) as
43 published on December 2, 1991.

44 Section 94G. Special life insurance for HIV-infected workers.
45 Each employer of a first responder in Massachusetts found to be
46 infected by HIV as a result of a work-related exposure as deter-
47 mined by the Standard of Blood Borne Pathogens of the federal
48 Occupational Safety and Health Administration shall provide him
49 or her with a life insurance policy equal to twice the worker's
50 most recent annual salary and to include so-called reverse-life
51 provisions when available.